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Review of “Psychiatry and the Law,” By Mandred S. Guttmacher & Henry Weihofen

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BOOK REVIEWS

PSYCHIATRY AND THE LAW. By Manfred S. Guttmacher, M.D., and Henry Weihofen, J.D., J.S.D. New York: W. W. Norton & Co., Inc., 1952. Pp. viii, 476. \$8.50.

A psychiatrist and a lawyer have combined forces to produce the type of book that should be of great value to the average practicing attorney. The purpose of the authors is to provide "a source book and practical guide on medico-legal psychiatry for students and practitioners of law and medicine." The value of the volume to the budding or practicing psychiatrist will be left by this reviewing lawyer to that profession, as perhaps it should be, but the purpose of the authors has been achieved insofar as the legal profession is concerned.

The average attorney handles a large variety of matters and has had little opportunity to equip himself in forensic psychiatry. His initial problem in a case involving psychiatric principles is to acquire in a short time enough scientific background and knowledge to make an intelligent appraisal of his job as a lawyer in that case. If he consults medical literature he finds it uniformly designed for medical specialists, and he must laboriously translate difficult technical language with the help of a dictionary and frequent phone calls to any sympathetic doctor whom he knows. "Psychiatry and the Law" is a useful aid in solving this problem, for it provides in readable form an excellent panoramic view of the various areas of psychiatry and a simplified explanation of terminology. The lawyer is enabled to become sufficiently oriented in the scientific aspects of his problem that he knows where to go and what to seek in the way of both factual and scientific evidence to prosecute his cause. The authors have made no attempt to treat any of the scientific subject matter exhaustively, and this succeeds in giving the lawyer what he attempts to give the layman in a course of business law: sufficient information to recognize the existence and scope of his problem, and sufficient sources from which to gather detailed counsel and expert advice.

After outlining the technical areas of psychiatry, the book turns to the ever-recurrent problem of expert testimony and the medical witness, a problem which contributes greatly to the high mortality rate among trial lawyers. The authors discuss in a clear and lucid manner the causes of the mutual complaints of lawyers and doctors alike in litigation. The trial lawyer is by definition and instinct an advocate, and a trial is an adversary proceeding. The doctor is a scientist, trained to objectivity in research and impartiality in opinion, unaccustomed to having his veracity questioned, and used to seeing his opinion treated with dignified deference by patient and colleague alike. The outlook and attitude of lawyer and doctor thus have great differences. The route to the only workable solution to these differences is charted with intelligence by the authors: mutual understanding between lawyer and doctor as to the basic functions of each in a law suit; thoughtful preparation of the doctor by the lawyer for the courtroom atmosphere of tenseness and hostility, the cross-examination by opposing counsel, and the best techniques of presentation of the doctor's opinion; careful education of the lawyer by the doctor in the scientific basis of the problem so that the lawyer may examine and cross-examine with acuity and perspective.

In addition to the foregoing "bread-and-butter" material, the authors put forth some thought-provoking ideas for improvements in the fact-finding process in psychiatric problems, and give a lengthy and stimulating treatment of the various thorny social and legislative problems created by care and treatment of

the mentally ill and the proper relationship between mental disease, the criminal, and the administration of criminal justice. All in all, "Psychiatry and the Law" is both a useful and practical text for the journeyman trial lawyer, and an interesting source of ideas on suggested public policy in a difficult and poorly understood field.

REXFORD H. CARUTHERS†

JURISPRUDENCE: MEN AND IDEAS OF THE LAW. By Edwin W. Patterson. Brooklyn: The Foundation Press, Inc., 1953. Pp. xiii, 649. \$7.50.

This work is described by the author, who is Cardozo Professor of Jurisprudence at Columbia University, as an invitation as well as an introduction to jurisprudence. As indicated in the preface,¹ the method adopted is to analyze and appraise the general theories about law that have been most influential on the law of the United States of America; in many instances, sketches are given of the personality and the social environment of the men by whom these theories have been contributed to current legal thought. The book has the merit of extending jurisprudence much beyond the conventional limits of the English analytical school; a major part is devoted to legal philosophy, and concise consideration is given to the relations of legal theory to philosophy generally and to the social sciences. Nevertheless, the scope of the subject matter is ostensibly foreshortened in time, space, and substance to the general ideas about law which have been influential in the contemporary American scene.

It is somewhat incongruous thus to project a study of *general* legal ideas, if not in local terms, at least in a *local* perspective. In some measure, this may be justified as the author's prerogative. But it is also pertinent to note that this work originated to meet the needs of the required course in jurisprudence introduced at Columbia in 1938, being preceded by four mimeograph editions in which it had a "thorough tryout." As such, it doubtless also reflects the extent to which the horizons of legal education in these latter days, in the United States as elsewhere, have tended to coincide with the national boundaries. It is a question how far the course in jurisprudence, which provides an opportunity to enlarge the interests of future members of the legal profession in the more fundamental aspects of justice, should make concessions of this nature to the professional interest in positive law. In justice to the author, who recognizes that the viewpoint adopted approaches that of a cultural anthropology, it should be added that, despite the professed national bias, a majority of the figures and ideas treated in the book are—as is inevitable—not native American. This obviously is desirable on various counts. As the distinguished scholar, Munroe Smith, who inaugurated the study of jurisprudence at Columbia on the broad basis of comparative legal history and legal science, once observed, a merely national science of law is a contradiction in terms. And assuredly, in this modern era of progressively integrated international relations, it is incumbent on those who in the name of jurisprudence are elected to lead the legal profession to envisage their task in correspondingly cosmopolitan terms.

"Jurisprudence," as defined by the author, "consists of the general theories of, or about, law."² Following a preliminary consideration of the Province of Jurisprudence in Part I, in which the meanings of the term, the relations between law and philosophy, and the significance of the several social sciences for

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1. p. vii.
2. p. 2.